

No. 14/13/87-6Lab./414.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of M/S A. D. C. District Rural Development Agency, Sirsa *versus* Purshotam Lal.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Referencee No. 24 of 92

Date of Receipt : 4-2-1992

Date of Decision : 1-3-1995

PURSHOTAM LAL C/O SH. H. S. SAMAGH, ADVOCATE, SIRSA *Applicant.*

*versus*

THE CHIEF EXECUTIVE OFFICER (ADDITIONAL DEPUTY COMMISSIONER)  
DISTRICT RURAL DEVELOPMENT AGENCY, SIRSA .. *Respondent-Management*  
*Present :*

Shri H. S. Samagh for the workman.

Shri Sita Ram ADA for the management.

#### AWARD

In exercise of the powers conferred by clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act'), the Governor of Haryana referred the following dispute between Purshotam Lal and the above mentioned management for adjudication to this Court,—*vide* Labour Department, letter No. Hsr/42-92/6737-42 dated 30th January, 1992 :—

Whether termination of services of Purshotam Lal is justified and in order? If not to what relief is he entitled?

2. According to the workman, he was appointed as Clerk by the Additional Deputy Commissioner on 23rd October, 1990 for a period of 89 days. However, he continued in service upto 19th July, 1991, when his services were terminated,—*vide* letter dated 22nd July, 1991. The workman has alleged that the said order of termination dated 22nd July, 1991, amounted to "retrenchment" and as provisions of Section 25—F of the Act were not complied with, the same was illegal. It was also stated that the management had contravened Section 25-G of the Act, as Narender Sharma, junior to the workman was retained in job. The workman, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. The management, in its written statement, while admitting the period during which the workman remained employed with the management, pleaded that the retrenchment order dated 22nd July, 1991 was perfectly valid and tenable in law, because District Rural Development Authority (hereinafter referred to as 'DRDA'), Sirsa did not fall within the ambit of "Industry" as defined in the Act and it was, therefore, pleaded that there was no contravention of Section 25-F and 25-G of the Act. It was further stated that the workman was second division Matriculate and he therefore, did not fulfil the prescribed qualifications for the post of Clerk in the DRDA. As regard Narender Sharma, it was stated that he was appointed through an open advertisement and further Mr. Narender Sharma was a Graduate and as such, the workman had no clash with Narender Sharma. Several preliminary objections were also raised, as they are reflected in the following issues framed on 16th June, 1992 by my learned predecessor :—

- (1) As per terms of reference.
- (2) Whether the respondent is not industry?
- (3) Whether the petitioner is not a workman?
- (4) Whether the petitioner has no cause of action?
- (5) Whether the petitioner does not fulfil the prescribed qualification for the post of Clerk? If so, to what effect?
- (6) Relief.

4. The parties led evidence in support of their rival claims. I have heard Shri H. S. Samagh, Authorised Representative of the workman and Shri Sita Ram, ADA for the management and have gone through the case file. My findings on the above issues are as under :—

**Issue No. 1 and 5:**

5. Both these issues, are inter-connected and as such, are taken up together for purposes of facility.

6. The facts in this case are not in dispute. It is admitted case that the workman was appointed on 23rd October, 1990 and he worked as such upto 19th July, 1991. In this way, the workman has put in service for 269 days continuously and it is not the case of the management that his services were terminated after complying with the provisions of Section 25-F of the Act. It is also not the case of the management that the work for which the applicant was appointed, stood accomplished or for that matter, the post was abolished. As such, the action of the management in terminating the services of the workman, is illegal, being in contravention of Section 25-F of the Act.

7. The main contention of the management is that the workman did not fulfil the qualifications prescribed for the post of Clerk in DRDA, Sirsa. The contention of the management can not be accepted, because in the case the workman did not fulfil the minimum qualifications, the management ought not to have given him any appointment. Even otherwise, it has been held by Madhya Pradesh High Court in the authority reported as *Mahesh Bhargava versus State of M. P. 1994(1) SLR-178*, that even if the workman was appointed invalidly, termination of such workman without resorting to provisions of Section 25-F of the Act, amounts to "retrenchment". The workman can therefore not be denied relief on the ground that he did not fulfil the described qualifications. Moreover, it is manifest from Ex. MW-2 that DRDA, Kaithal had prescribed Matric qualification with typing for the post of three Clerks and the management has not placed on file any documents to prove that competent authority had prescribed Matric 1st Division as Minimum qualification for the post of Clerks in DRDAs in Haryana.

8. In the light of discussion above, I hold that retrenchment of the workman being in violation of Section 25-F of the Act, is illegal and the management has failed to prove that the workman did not fulfil the prescribed qualifications for the post of Clerk. The workman is, therefore, entitled to reinstatement with full back wages and other consequential benefits. Both these issues are, therefore, decided in favour of the workman.

**Issue No. 2:**

9. This issue was not seriously contested by Shri Sita Ram, ADA during arguments. Even otherwise, welfare activities of DRDA are not excluded from the definition of "industry" as defined in the Act. This issue is, therefore decided against the management.

**Issue Nos. 3 & 4:**

10. Both these issues were not pressed by the Authorised Representative of the management and were conceded to by him during arguments. Both these issues, are thus, answered against the management.

**Issue No. 6 Relief :**

11. In view of my findings on the above issues the termination of services of the petitioner is held as illegal. The same is hereby set aside. The petitioner is reinstated forthwith, with full back wages and benefit of continuity of service and other consequential benefits. The reference is answered accordingly, with no order as to costs.

The 1st March, 1995

B. R. VOHRA,

Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Hisar.

Endorsement No.                      dated, the

A copy, with two spare copies, is forwarded to the Financial Commissioner & Secretary to Government, Haryana Labour & Employment Department Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Hisar.